In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.6931 of 2005.

Date of decision:27.10.2006.

Sabhajit Mahajan.

...Petitioner.

Versus

Sat Pal

...Respondent.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.Sumeet Mahajan Advocate for the petitioner.

Mr.S.N.Saini Advocate for the respondent.

...

Judgment.

S. N. Aggarwal, J.

This order will dispose of two Civil Revisions namely Civil Revision No.6931 of 2005 (Sabhajit Mahajan Versus Sat Pal) and Civil Revision No.6932 of 2005 (Sabhajit Mahajan Versus Mangat Ram) as common questions of law and fact are involved in both the revision petitions. The facts are, however, taken from Civil Revision No.6931 of 2005.

The petitioner had filed an ejectment petition against the respondent on the ground of non payment of arrears of rent with effect

from October,2001. The arrears of rent were tendered by the respondent on the first date of hearing i.e. 17.3.2005 and the arrears of rent were accepted by the petitioner under protest pleading that the same were short and invalid. The case was adjourned by the trial Court to 11.4.2005 for filing written reply. Thereafter, the petitioner filed an application for amendment of ejection petition pleading that the arrears of rent were outstanding against the respondent with effect from October,1994 and by an omission, the arrears of rent were claimed with effect from October,2001.

The application was contested by the respondent. It was dismissed by the learned Rent Controller vide impugned order dated 9.9.2005.

Hence, the present petition.

The submission of learned counsel for the petitioner was that the application for amendment was filed at the initial stage i.e. even before the evidence was produced by the petitioner and the omission had taken place due to over-sight. Although the arrears of rent were outstanding with effect from October,1994, but by an omission these were claimed with effect from October,2001. It was further submitted that the petitioner would have no objection if another opportunity would be granted to the respondent to tender the arrears of rent. The petitioner would also have no objection if the respondent is granted an opportunity to produce the receipts of rent having been paid from October,1994 to September,2001. Hence, it was prayed that the

impugned order be set aside and these liberties be granted to the respondent.

This submission has been considered. If the rent had been outstanding against the respondent with effect form October,1994, the petitioner would not have committed a mistake in claiming the same with effect from October,2001. Even if it is presumed that the arrears of rent were outstanding with effect from October,1994 but once the arrears of rent were claimed with effect from October, 2001, it amounted to waiver on the part of the petitioner for claiming arrears of rent with effect from October,1994 to September,2001. The learned Rent Controller has rightly dismissed the application for amendment. I find no reason to disturb the said order.

No merit.

Dismissed.

October 27,2006. (S. N. Aggarwal)
Jaggi Judge